



# **CITY OF DETROIT**

## **Tenth Quarter**

# **STATUS REPORT**



To The

Independent Monitor

*FOR THE QUARTER ENDING  
FEBRUARY 28, 2006*

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## INTRODUCTION

The City of Detroit (City), the Detroit Police Department (DPD) and the United States Department of Justice (DOJ) entered into two Consent Judgments on July 18, 2003, one dealing with *Use of Force, Arrest and Witness Detention* (UOF CJ) and a second regarding *Conditions of Confinement* (COC CJ). This progress report (entitled the *Tenth Quarter Status Report to the Independent Monitor*) presents the City's continued commitment to achieve compliance with the *consent judgments* (CJ), detailing the City's compliance efforts for the tenth quarter, which began December 1, 2005, and ended February 28, 2006.

## EXECUTIVE SUMMARY

During the tenth quarter, the City and the DPD have achieved significant success in satisfying the requirements for paragraphs under review for this quarter, particularly in the area of policy revision and distribution. The tenth quarter review consists of a total of 79 paragraphs. Of the paragraphs reviewed, 33 were from the COC CJ and 46 pertain to the UOF CJ.

| PARAGRAPHS REVIEWED DURING THE TENTH QUARTER   |   |   |
|--|---|---|
| CONDITIONS OF CONFINEMENT  | USE OF FORCE  |   |
| C-14 through C-25<br>C-35 through C-38<br>C-52 through C-57<br>C-62 through C-64<br>C-65abc<br>C-66ab<br>C-67 through C-72 | U-27 through C-33<br>U-49 through C-57<br>U-59 and U-60<br>U-72 through U-78<br>U-84 and U-85 | U-88efg<br>U-89<br>U-93<br>U-98<br>U-100 through U-105<br>U-115 through U-123 |

The following areas of the CJ are reviewed respectively in this quarterly report:

| Conditions of Confinement   |
|---|
| <ul style="list-style-type: none"><li>• Fire Safety Policies</li></ul>                              |
| <ul style="list-style-type: none"><li>• Emergency Preparedness Policies</li></ul>                   |
| <ul style="list-style-type: none"><li>• Prisoner Safety Policies</li></ul>                          |
| <ul style="list-style-type: none"><li>• Use of Force and Restraints Policies</li></ul>              |
| <ul style="list-style-type: none"><li>• Incident Documentation, Investigation and Review</li></ul>  |
| <ul style="list-style-type: none"><li>• Management and Supervision</li></ul>                        |
| Use of Force  |
| <ul style="list-style-type: none"><li>• Incident Documentation, Investigation, and Review</li></ul> |
| <ul style="list-style-type: none"><li>• Arrest and Detention Policies and Practices</li></ul>       |
| <ul style="list-style-type: none"><li>• General Policies</li></ul>                                  |
| <ul style="list-style-type: none"><li>• Management and Supervision</li></ul>                        |
| <ul style="list-style-type: none"><li>• Training</li></ul>  |

## **POLICIES**

The following approved policies and training directive became effective during the tenth quarter.

| <b>Directive #</b>      | <b>Subject</b>                       | <b>Distribution Date</b> | <b>Effective Date</b> |
|-------------------------|--------------------------------------|--------------------------|-----------------------|
| Training Directive 04-4 | Garrity Protocol                     | 01/09/06                 | 02/09/06              |
| 304.5                   | Board of Review                      | 01/09/06                 | 02/09/06              |
| 102.4                   | Discipline/Misconduct Investigations | 01/09/06                 | 02/09/06              |
| 305.8                   | Food Service and Hygiene Items       | 02/02/06                 | 02/09/06              |

## **PROJECT MANAGEMENT**

The Project Management Office (PMO) continues to conduct focus meetings and weekly Program Status Update meetings where the schedule, action items, and issues are reviewed and updated. Project management has proven to be beneficial to the DPD in several ways. It is a carefully planned and organized effort to accomplish a specific effort. Project management includes developing a project plan, which includes defining project goals and objectives, specifying tasks or how goals will be achieved, what resources are needed and associating budgets and timelines for completion. It also includes implementing the project plan, along with careful controls to stay on the "critical path", that is, to ensure the plan is being managed according to plan. Project management follows major phases including feasibility study, project planning, implementation, evaluation and support/maintenance.

## **TRAINING**

Planning is conducting on-going classes on the use of the Interim Management Awareness System (IMAS) for supervisory personnel. Currently **all** Deputy Chiefs, Commanders and Inspectors have been trained on the use of this system as well as 86 Lieutenants and 255 Sergeants. In addition, the DPD having passed an important milestone - the development and approval by the Monitor and the DOJ of all Consent Judgment policies - is now embarking on developing a systematic process to ensure that all members of the DPD are trained on those policies. The DPD has had discussions with Michigan State University (MSU) to partner with an e-learning delivery module being utilized at the university.

Additionally, during February 15-17, 2006, the Chief of Police, Deputy Chief of the Risk Management Bureau, 2<sup>nd</sup> Deputy Chief of Training along with the Commanding Officer of the Office of Civil Rights and other members involved in the DPD's delivery of training

attended a presentation in Los Angeles, California by the Los Angeles Police Department on their e-learning training delivery system.

### **HOLDING CELL COMPLIANCE COMMITTEE**

The Holding Cell Compliance Committee (HCCC) has made significant progress during the tenth quarter. The HCCC is conducting cellblock inspections to ensure that matters of Detainee Safety, Cleaning and Maintenance are satisfied. These inspections provide an effective supplement to and compliment for the audits performed by the Audit Team. The following audits relative to the DPD operation of Holding Cells were submitted during this quarter:

| <b>Audit</b>                                     | <b>Submission Date</b> |
|--|------------------------|
| Detainee Safety Policies and Program             | 01/31/06               |
| Use of Force in Holding Cells Investigations     | 01/31/06               |
| Detainee Injury in Holding Cells Investigation   | 01/31/06               |
| Food Service Program and Personal Hygiene Policy | 01/31/06               |
| Detainee Medical and Mental Health Care          | 01/31/06               |
| Allegations of Misconduct in Holding Cells       | 01/31/06               |
| Fire Safety Practices                            | 01/31/06               |
| Emergency Preparedness Program                   | 01/31/06               |

### **AUDITS**

In addition to the aforementioned audits being submitted to the Monitor, an Audit Synopsis Report was prepared on each audit submitted. The Audit Synopsis Report was forwarded to the Chief of Police along with copies of the underlying audits. The Audit Synopsis Report and the respective audits were also forwarded to every executive within the DPD. A Corrective Action Notice (CAN) was forwarded to each commanding officer where a specified deficiency was found at their command or a generalized deficiency was found that was within their span of control.

**Paragraphs Reviewed for the Tenth Quarter Evaluation**  
**CONDITIONS OF CONFINEMENT**

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**Paragraph C-14**

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**Fire Safety Policies**

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The DPD shall ensure that all holding cells, and buildings that contain them, achieve and maintain compliance with the Life Safety Code within one year of the effective date of this Agreement. The City shall ensure that the Detroit Fire Marshal conducts regular and periodic inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the Life Safety Code.

**STATUS:** In January 2004, the Detroit Fire Marshal began inspections of the DPD holding cells and buildings that contain them to evaluate the conditions. The DFD conducted its second inspection in February 2005. The inspections revealed some conditions that were not consistent with the Life Safety Code. After assessing the reported conditions, DPD determined it feasible to correct the minor violations and the appropriate action was taken (i.e., wrapping of exposed pipes, ensuring doors are closed at all times, removing cane fiber ceiling tiles, etc.). Although, the construction of the new detention facility will bring the DPD into full compliance with the Life Safety Code, the DPD is cognizant of the obligations imposed by this paragraph irrespective of the eventuality of the construction of a new detention facility. On January 12, 2006, the DPD had PMA Consultants provide an estimate for a new fire detection and suppression system at the five City of Detroit police facilities that house detainees. The estimated cost was \$2,600,000.

At this point in time, the DPD is analyzing as to whether any or all of the estimated costs should be undertaken. The DPD is currently analyzing the cost investment (including timeline) of putting these types of dollars into existing facilities against the funds that the DPD is required to invest toward the construction of a new regional facility and the anticipated timeline for that project. The DPD is also currently exploring the possibility of meeting compliance with this paragraph vis-à-vis an agreement with the Wayne County Sheriff's Department to accept DPD's pre-arraignment detainees. However, as long as the DPD continues to hold detainees until arraignment, the DFD will continue to conduct annual inspections of all DPD holding cells and buildings that contain them as required by the Life Safety Code. The DPD will request that the DFD conduct an inspection in March 2006.

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**Paragraph C-15**

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**Fire Safety Policies**

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The DPD shall develop and implement a comprehensive fire detection, suppression and evacuation program for the holding cells, and buildings that contain them, in accordance with the requirements of the Life Safety Code and in consultation with the Detroit Fire Department.

**STATUS:** Due to the association between Paragraphs 15, 16, and 17, the status of this paragraph is reported jointly under Paragraph 17.

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**Paragraph C-16**

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**Fire Safety Policies**

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The fire safety program shall be developed in consultation with and receive written approval by the Detroit Fire Department. As part of developing the fire safety program, the Detroit Fire Department shall evaluate the need for and, if necessary, the DPD shall install: fire-rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for the holding cells and buildings that contain them. The fire safety program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement.

**STATUS:** Due to the association between Paragraphs 15, 16, and 17, the status of this paragraph is reported jointly under Paragraph 17.

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**Paragraph C-17**

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**Fire Safety Policies**

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The DPD shall implement the fire safety program within one year of the effective date of this Agreement. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan.

**STATUS:** The DPD in consultation with the DFD developed a Fire Safety Plan to address the requirements of Paragraphs 15, 16, and 17. The plan was submitted to the Monitor and the DOJ for Technical Assistance (TA) in January and March 2005. Based upon the TA received on April 19, 2005, the plan was revised and resubmitted to the DOJ on April 25, 2005. In July 2005, the DOJ made their final recommendations on the plan. The plan is currently being reviewed by the DFD. The necessary equipment installation requirements are being reviewed pursuant to the paragraph status as reported in C-14 of this report.

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**Paragraph C-18**

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**Fire Safety Policies**

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The DPD shall take immediate interim fire safety measures in all buildings that contain holding cells. At a minimum, these interim measures shall:

- a. ensure that the activation of any individual smoke alarm sounds an alarm throughout the building;
- b. ensure that prisoners in holding cells have an adequate means of reporting emergency conditions to DPD staff immediately;
- c. ensure that automated back-up power systems exist for all buildings



containing holding cells that are capable of providing immediate power for emergency lighting, exit signs, fire alarm and smoke detection systems in the event of an electrical power failure through batteries or an emergency generator; and

- d. reduce the likely spread of smoke and fire throughout the buildings by means of stairwells, garages, hazardous rooms and exposed pipes, such as ensuring that fire doors in stairwells are closed.

**STATUS:** With the exception of subparagraph (a), the DPD utilizes the following interim measures to ensure fire safety:

(a) The DPD's response to this subparagraph is reliant on the conclusions reached pursuant to the DPD's analysis under Paragraph C-14 of this report.

(b) Reporting of emergency conditions is a component of both the Fire Safety Plan and the Emergency Preparedness Plan. Additionally, DPD policy requires that at least one Detention Officer is present in the cellblock area at all times to ensure the detainees have immediate access to report emergency conditions.

(c) DTE Energy completed the installation of pads for generators at the holding cell facilities on December 31, 2004. All districts are now equipped with generators that are connected to the electrical systems to provide immediate power in case of emergency.

(d) To reduce the spread of smoke and fire throughout buildings, the DPD issued "Interim Fire Safety Measures" Teletype 04-00227/8, dated January 15, 2004. The teletype mandates that all fire doors and district garage doors shall be closed and free of obstructions. All exposed pipes have been repaired.

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## Paragraph C-19

## Fire Safety Policies

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The DPD shall ensure that fire safety equipment is routinely tested, inspected and maintained, including the sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatuses.

**STATUS:** On February 17, 2006, the PMA Consultants provided the DPD with an estimate of cost for updating the fire safety equipment at the districts. Currently, the DPD is reviewing the cost and feasibility of updating. There are no self-contained breathing apparatuses stored or maintained in any DPD holding cell facility.

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**Paragraph C-20**

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**Fire Safety Policies**

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The DPD shall enforce immediately its no-smoking policy in the holding cells or provide ash trays and ensure that all holding cells areas are constructed and supplied with fire rated materials.

**STATUS:** In December 2003, Teletype 03-07405 was issued to ensure no smoking in DPD buildings and vehicles. In addition to this provision being addressed in the Holding Cell Areas Directive, 305.4, no smoking signs were posted in all buildings that contain holding cells. Inspections were conducted during June 15-17, 2005, and on November 11, 2005, to ensure that the no smoking signs remain posted throughout facilities containing holding cells. Additionally, Teletype 05-03132 which prohibits smoking in DPD facilities was **issued** on June 16, 2005 and re-flashed on January 24, 2006. The DPD is in compliance with this paragraph.

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**Paragraph C-21**

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**Fire Safety Policies**

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The DPD shall ensure immediately that all flammable and combustible liquids in holding cell areas and the attached and nearby DPD buildings are stored properly.

**STATUS:** The DPD ordered cabinets to store flammable and combustible liquids in November 2003 from the Northern Safety Company. The cabinets were delivered in December 2003. To ensure that the cabinets are being properly utilized, the DPD in consultation with the DFD developed a flammable and combustible liquids protocol along with guidelines. All districts are supplied with the flammable storage cabinets. The protocol and guidelines are posted on each cabinet.

The HCCC staff conducted inspections of the cabinets June 15-17, 2005, and on November 15, 2005, and found that all were in compliance with the guidelines and protocols. The DPD is in compliance with this paragraph.

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**Paragraph C-22**

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**Fire Safety Policies**

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The DPD shall remove immediately all highly-combustible Kane fiber ceiling tiles from all buildings that contain holding cells.

**STATUS:** The removal of all kane fiber ceiling tiles from all holding cells and buildings that contain them was completed on March 10, 2004. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-23**

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**Emergency Preparedness Policies**

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The DPD shall ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire or other emergency.

**STATUS:** Due to the association between Paragraphs 23 and 24 the status of this paragraph is reported jointly under Paragraph 24.

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**Paragraph C-24**

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**Emergency Preparedness Policies**

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The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the program within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

- a. include an emergency response plan for each building that contains holding cells identifying staff responsibilities in the event of fire-related emergencies and other emergencies, including notification responsibilities, evacuation procedures and key control procedures (discussed below); and
- b. require performance and documentation of fire drills for all buildings containing holding cells on all shifts every six months (documentation shall include the start and stop times of each drill, the staff members who participated in the drill, a summary of the drill, and an evaluation of the success of the drill).

**STATUS:** The Emergency Preparedness Plans were submitted to the DOJ on July 22, 2004. In November and December 2004, based on TA received from the DOJ, the plans were revised and resubmitted. In March 2005, the DOJ responded to the plans via TA. The Emergency Preparedness Plans are currently under review by DOJ.

The DPD conducts monthly fire drills on all shifts for all buildings containing holding cells. A Fire Drill Log, which is currently being utilized to document the fire drills, was submitted to the DOJ for review and approval on March 24, 2005. The DOJ approved this log on August 18, 2005. Additionally, the Emergency Preparedness Audit, which was submitted on January 31 2006, indicates that for the previous six month period, the DPD documented all fire drills that were performed.

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**Paragraph C-25**

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**Emergency Preparedness Policies**

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The DPD shall develop and implement key control policies and procedures that ensure that all staff are able to manually unlock all holding cell doors in the event of a fire or other emergency. At a minimum, the key control policies and procedures shall:

- a. provide for emergency identification of keys by touch; and
- b. require routine inventory, testing and maintenance of keys and locks.

**STATUS:** The provisions of this paragraph are incorporated in the Holding Cell Areas Directive, 305.4. Additionally, all cellblocks have been re-keyed. The re-keying of the cellblock locks enables the operation of the holding cells through the use of a single universal key. This key is unique and distinct and can be identified both by sight and by touch. The HCCC conducts weekly inspections to ensure the keys and locks are maintained.

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**Paragraph C-35**

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**Prisoner Safety Policies**

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The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

**STATUS:** Due to the association between Paragraphs 35, 36, and 38 the status of this paragraph is reported jointly under Paragraph 38.

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**Paragraph C-36**

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**Prisoner Safety Policies**

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The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:

- a. establish protocols based upon objective, behavior based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and
- b. require that security screening information is documented and communicated between consecutive shifts.

**STATUS:** Due to the association between Paragraphs 35, 36, and 38 the status of this paragraph is reported jointly under Paragraph 38.

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**Paragraph C-37**

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**Prisoner Safety Policies**

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The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, these procedures should:

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks on prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and
- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.

**STATUS:** The requirements of this paragraph are addressed in the Holding Cell Areas Directive, 305.4. All Districts have installed time clocks in the cell block areas. The time clocks are being utilized to stamp the times of all cell checks performed by DFOs and PDOs every 15-30 minutes or whenever a cell check is made. The card is then reviewed and signed by the officer in charge of the desk at the end of the shift who forwards it to the commander. The commander is required to review and sign the card on a daily basis.

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**Paragraph C-38**

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**Prisoner Safety Policies**

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The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on-site remote observation of all observation cells while they are occupied.

**STATUS:** The requirements of Paragraphs 35, 36, and 38 are addressed in the Detainee Intake and Assessment Directive, 305.1. In a letter dated March 22, 2005, the DOJ provided TA on the Directive and approved the Directive on April 4, 2005. The Directive was disseminated on April 18, 2005, with an effective date of May 9, 2005. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-52**

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**Use of Force and Restraints Policies**

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The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

**STATUS:** Due to the association between Paragraphs 52 through 57 the status of this paragraph is reported jointly under Paragraph 57.

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**Paragraph C-53****Use of Force and Restraints Policies**

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The DPD shall revise and augment its policies regarding prisoners to require that:

- a. officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and
- c. the supervisor assess the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.

**STATUS:** Due to the association between Paragraphs 52 through 57 the status of this paragraph is reported jointly under Paragraph 57.

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**Paragraph C-54****Use of Force and Restraints Policies**

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The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

**STATUS:** Due to the association between Paragraphs 52 through 57 the status of this paragraph is reported jointly under Paragraph 57.

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**Paragraph C-55****Incident Documentation, Investigation and Review**

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The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

**STATUS:** Due to the association between Paragraphs 52 through 57 the status of this paragraph is reported jointly under Paragraph 57.

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**Paragraph C-56****Incident Documentation, Investigation and Review**

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The DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

**STATUS:** Due to the association between Paragraphs 52 through 57 the status of this paragraph is reported jointly under Paragraph 57.

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**Paragraph C-57**

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**Incident Documentation, Investigation and Review**

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The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

**STATUS:** Paragraphs 52 through 57 are incorporated in the Holding Cell Areas Directive, 305.4; the Use of Force Directive, 304.2; and the Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation (formerly Use of Force Reporting) Training Directive, 04-7, which dictate the use of force and restraints procedures for incidents occurring in DPD holding cells.

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**Paragraph C-62**

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**Management and Supervision**

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The DPD shall routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners.

**STATUS:** This paragraph has been attained vis-a-vis the creation of the HCCC. The HCCC includes members of the DFD, the Detroit Health and Wellness Promotion Program and various members of the DPD. The Committee meets on a bi-weekly basis, which has been attended by the Monitor. Additionally, the DPD conducts regularly scheduled audits to evaluate the operation of the DPD holding cells and members of the HCCC serve as members of these audit teams. The HCCC also conducts independent inspections to ensure that policies are consistently enforced throughout the DPD. The DPD is in compliance with this paragraph.

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**Paragraph C-63**

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**Management and Supervision**

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The DPD shall operate the holding cells in compliance with the DPD's comprehensive risk management plan including implementation of:

- a. the risk management database;
- b. the performance evaluation system;
- c. the auditing protocol;
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

**STATUS:** The DOJ has approved the Request for Proposal, Review Protocol, and Report Protocol for the Management Awareness System. DPD is waiting for approval from DOJ on the Data Input Plan. However, the Interim Management Awareness System (IMAS) has been implemented and includes a database.

Futhermore, DPD has approved the conversion of the IMAS database to the permanent database for (MAS) rather than pursuing outside vendors.

On February 17, 2006, the DOJ tentatively approved converting IMAS to MAS, with several concerns including the potential cost overruns and the possibility of petitioning the Court to modify the consent judgments. This issue will be discussed with the DOJ during the first week in March 2006.

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**Paragraph C-64**

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**Management and Supervision**

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The DPD policy on video cameras shall be revised and augmented to require:

- a. the installation and continuous operation of video cameras in all prisoner processing areas of DPD holding cells within one year of the effective date of this Agreement;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and
- d. that the DPD conduct and document periodic random reviews of prisoner processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoner processing area video recording equipment to confirm that it is in proper working order.

**STATUS:** Video cameras have been installed in the processing areas of all DPD holding facilities. A protocol has been developed for the capture and review of videotapes in all holding facilities. On March 4, 2005, the protocol was submitted to the Monitor for review and comments. A written response was received on April 26, 2005, suggesting minor revisions to both the protocol and related Directives (In-Car Video Equipment Directive, 303.3 and Holding Cell Areas Directive, 305.4).

On May 10, 2005, the DPD resubmitted the protocols, forms, logs, and directives to the Monitor. On May 16, 2005, the DPD was notified that the Monitor had approved all protocols, forms and logs relating to the above directives.

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**Paragraph C-65abc**

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**Management and Supervision**

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The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including:

- a. reviewing a sample of command, IAD, and Homicide Section investigations;
- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;



- c. evaluating the preservation and analysis of the evidence;
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;
- e. evaluating the appropriateness of the investigator's conclusions; and
- f. issuing a written report regarding the findings of the audit.

**STATUS:** The Use of Force in Holding Cells, the Allegations of Misconduct in Holding Cells and the Prisoner Injuries in Holding Cells audit reports were submitted to the Monitor on January 31, 2006. The DPD is in compliance with this paragraph.

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**Paragraph C-66ab**

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**Management and Supervision**

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The DPD shall create a Holding cell compliance committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled bi-annual audits in all buildings containing holding cells to evaluate compliance with the fire detection, suppression and evacuation program, including:

- a. testing a sample of smoke detectors and sprinklers;
- b. testing the back-up power systems;
- c. reviewing a sample of fire equipment testing and maintenance records; and
- d. issuing a written report regarding the findings of the audit.

**STATUS:** The Fire Safety Program audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with this paragraph.

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**Paragraph C-67**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate emergency preparedness, including:

- a. reviewing a sampling of key and fire equipment maintenance and inventory records;
- b. interviewing selected detention officers about their participation in fire drills and on their responsibilities under the emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and
- c. issuing a written report regarding the findings of the audit.

**STATUS:** The Emergency Preparedness Program (EPP) audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with this paragraph.

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**Paragraph C-68**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled *bi-annual* audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospital referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;
- b. observing intake screening interviews to assess thoroughness;
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and
- d. issuing a written report regarding the findings of the audit.

**STATUS:** The Medical and Mental Health Policies and Program audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-69**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled *bi-annual* audits in all buildings containing holding cells to evaluate the detainee safety programs and policies, including:

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell check logs are receiving supervisory review and written approval; and
- c. issuing a written report regarding the findings of the audit.

**STATUS:** The Detainee Safety Policies and Program audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-70**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled bi-annual audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks and toilets are operable;
- b. reviewing a sampling of cleaning and maintenance logs to ensure they are properly maintained and reflect the scheduled performance of the requisite cleaning and maintenance tasks;
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;
- d. observing whether holding cells are free of any potential suicide hazards; and
- e. issuing a written report regarding the findings of the audit.

**STATUS:** The Environmental Health and Safety Program audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-71**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits of all buildings containing holding cells to evaluate the food service program, including:

- a. reviewing a sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;
- b. assuring that food is handled in a sanitary manner; and
- c. issuing a written report regarding the findings of the audit.

**STATUS:** The Food Service Program audit report was submitted to the Monitor on January 31, 2006. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph C-72**

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**Management and Supervision**

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The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

**STATUS:** During this quarter, eight audit reports were completed and submitted to the Chief of Police and executives along with a synopsis of each audit. In all instances where a specific deficiency was disclosed in an audit report, a Corrective Action Notice (CAN) was forwarded to the command, which has ten days to prepare a Corrective Action Plan (CAP) detailing what corrective action was recommended or taken to correct the deficiency. During the subsequent quarter (ending May 31, 2006), the DPD will conduct follow-up random inspections to ascertain whether the deficiency has been corrected. Those instances in which deficiencies have not been addressed will be brought to the attention of the Chief of Police.

## Paragraphs Reviewed for the Tenth Quarter Evaluation USE OF FORCE

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### Paragraph U-27

### Incident Documentation, Investigation, and Review

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The DPD and the City shall revise their policies regarding the conduct of all investigations to ensure full, thorough and complete investigations. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified and the DPD and the City shall prohibit the closing of an investigation being conducted by the DPD and/or the City simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.

**STATUS:** Due to the association between Paragraphs 27 through 30 the status of this paragraph is reported jointly under Paragraph 30.

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### Paragraph U-28

### Incident Documentation, Investigation, and Review

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The DPD and the City shall ensure that investigations are conducted by a supervisor who did not authorize; witness or participate in the incident and that all investigations contain:

- a. documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvass of the scene to identify civilian witnesses;
- b. thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements;
- c. photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and
- d. documentation of any medical care provided.

**STATUS:** Due to the association between Paragraphs 27 through 30 the status of this paragraph is reported jointly under Paragraph 30.

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### Paragraph U-29

### Incident Documentation, Investigation, and Review

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The DPD and the City shall revise their procedures for all investigatory interviews to require:

- a. officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);
- b. whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at

- their residences or places of business; and
- c. that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.

**STATUS:** Due to the association between Paragraphs 27 through 30 the status of this paragraph is reported jointly under Paragraph 30.

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**Paragraph U-30** **Incident Documentation, Investigation, and Review**

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The DPD and the City procedures for all investigatory interviews shall prohibit:

- a. the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and
- b. the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

**STATUS:** Paragraphs 27 through 30 are incorporated in the Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation (formerly Use of Force Reporting) Training Directive, 04-7. The Training Directive was submitted to the DOJ and Monitor February 18, 2005. The DPD received a letter on March 23, 2005, with additional comments and/or suggestions. The Training Directive, 04-7, along with the Use of Force Auditable Form, UF-002, were sent to the Monitor on May 17, 2005. On June 6, 2005, the DPD received a letter from the Monitor with comments and recommendations concerning both. Revisions were made and the documents were resubmitted August 2, 2005. The Monitor approved the Use of Force Auditable Form and Training Directive on August 24, 2005. Both were disseminated to all members on October 29, 2005, with an effective date of November 21, 2005. The DPD is in compliance with this Paragraph.

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**Paragraph U-31** **Incident Documentation, Investigation, and Review**

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The DPD and the City shall develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967).

**STATUS:** The DPD developed a Garrity Protocol Training Directive, 04-4, as required in this paragraph. The protocol was approved by the COP on September 17, 2004, and the BOPC on October 14, 2004. The protocol was forwarded to the DOJ and Monitor on October 25, 2004.

On April 7, 2005, a conference call with the Monitor was held regarding the Garrity Protocol. The protocol was revised and resubmitted to the Monitor on May 13, 2005, and then again on May 17, 2005. On August 18, 2005, the DPD received a letter from the Monitor indicating that the Monitor and DOJ were discussing the protocol. Numerous discussions were held between the Monitor, DOJ and the DPD and on November 18, 2005, Training Directive 04-4, Garrity Protocol was approved by the Monitor. On December 13, 2005, all members of the OCI were trained on the protocol and members of Internal Affairs were trained on February 27, 2006. The DPD is in compliance with this Paragraph.

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**Paragraph U-32**

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**Incident Documentation, Investigation, and Review**

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The DPD shall revise its policies regarding all investigatory reports and evaluations to require:

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant;
- e. an evaluation of whether an officer complied with DPD policy;
- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing.

**STATUS:** Due to the association between Paragraphs 32 and 33 the status of this paragraph is reported jointly under Paragraph 33.

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**Paragraph U-33**

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**Incident Documentation, Investigation, and Review**

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The DPD shall revise its policies regarding the review of all investigations to require:

- a. investigations to be reviewed by the chain of command above the investigator;
- b. the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;
- c. the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;
- d. appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and
- e. a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.

**STATUS:** The requirements of Paragraphs 32 and 33 are incorporated in the Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation (formerly Use of Force Reporting) Training Directive, 04-7. A Supervisor's Investigation Report (SIR) UF 002A was developed to ensure that a comprehensive report is prepared. The SIR eliminated the necessity of preparing both the Investigation and Report and the Police Action Incident Report (PAIR). The SIR was disseminated on December 2, 2005. The DPD is in compliance with this Paragraph.

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**Paragraph U-49**

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**Arrest and Detention Policies and Practices**

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The DPD shall revise its policies to require prompt judicial review, as defined in this Agreement, for every person arrested by the DPD. The DPD shall develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

**STATUS:** Due to the association between Paragraphs 49, 50, and 51, the status of this paragraph is reported jointly under Paragraph 51.

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**Paragraph U-50**

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**Arrest and Detention Policies and Practices**

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The DPD shall require that, for each arrestee, a warrant request for arraignment on the charges underlying the arrest is submitted to the prosecutor's office within 24 hours of the arrest.



**STATUS:** Due to the association between Paragraphs 49, 50, and 51, the status of this paragraph is reported jointly under Paragraph 51.

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## Paragraph U-51

## Arrest and Detention Policies and Practices

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The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 24 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was:

- 1) a failure to request an arraignment warrant within 24 hours,
- 2) a failure to comply with the prompt judicial review policy, or
- 3) an arraignment delayed because of extraordinary circumstances.

**STATUS:** The DPD has revised its policy to address the requirements of Paragraphs 49 and 50. The Arrest Directive, 202.1, which references Prompt Judicial Review, was approved by the COP on April 5, 2004, and the BOPC on April 29, 2004. The Directive was forwarded to the DOJ on April 30, 2004. Based on TA from the Monitor, revisions were made on October 1, 2004, and resubmitted. In the November 30, 2004, Quarterly Report, the Monitor indicated the the Arrest Directive adequately addressed the requirements of this paragraph. The Directive was disseminated on April 11, 2005, with an effective date of May 2, 2005.

The DPD developed the Warrant Tracking Auditable Form, UF-004, which is a requirement of Paragraph 51. The auditable form was forwarded to the Monitor for review on April 30, 2004. The Monitor replied with a letter of TA dated June 25, 2004. On March 4, 2005, the DPD supplemented the Auditable Form UF-004 with guidelines. The COP approved the revision on March 31, 2005. Auditable Form UF-004 and guidelines were made available for use to DPD members via the DPD's website on April 13, 2005. A written review by the Monitor, received on May 17, 2005, stated that Auditable Form UF-004 is adequate.

The DPD is currently using the Daily Prisoner Report to provide a timely and systematic process for all arrestees to be presented for prompt udicial review or to be released. However, the Monitor indicated that this report is not adequate and made recommendations. Revisions are being made to the Daily Prisoner Report based on the Monitor's concerns. The DPD is also exploring the feasibility of including this system in Live Scan wherein the process will be automatic and updated yearly. The DPD is in compliance with these paragraphs.

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**Paragraph U-52**

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**Arrest and Detention Policies and Practices**

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The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. The policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process.

**STATUS:** Due to the association between Paragraphs 52 and 53, the status of this paragraph is reported jointly under Paragraph 53.

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**Paragraph U-53**

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**Arrest and Detention Policies and Practices**

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53. The DPD shall document all holds, including the time each hold was identified and the time each hold was cleared. The DPD shall document on an auditable form each instance in which a hold is not processed within twenty-four hours on a daily basis.

**STATUS:** The DPD's Detainee Registration Directive, 305.2, which references the "hold policy" addresses the requirements of this paragraph. The Directive was approved by the COP on September 20, 2004, and the BOPC on November 9, 2004. It was forwarded to the Monitor on November 15, 2004. The Monitor approved the Directive on April 26, 2005, via a telephone conference. On August 15, 2005, the Directive was disseminated to DPD personnel with an effective date of September 12, 2005. Both the Detainee Registration Directive and the Definition Directive, 404.1 define a hold in the same manner as defined in the COC CJ.

The DPD created the Hold Policy Auditable, Form UF-007, which was forwarded to the Monitor for review on March 30, 2004. The Monitor replied via a letter of TA dated June 25, 2004. The auditable form and guidelines were approved by the COP on March 31, 2005. The form and guidelines were made available for use by DPD members via the DPD's website on April 13, 2005. The Hold Policy Auditable Form was also approved via a written correspondence by the Monitor received on May 17, 2005. The DPD is in compliance with these paragraphs.

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**Paragraph U-54**

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**Arrest and Detention Policies and Practices**

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The DPD shall develop a policy regarding restricting detainee's access to telephone calls and visitors that permits individuals in DPD custody access to attorneys and reasonable access to telephone calls and visitors.

**STATUS:** Due to the association between Paragraphs 54 and 55, the status of this paragraph is reported jointly under Paragraph 55.

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**Paragraph U-55**

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**Arrest and Detention Policies and Practices**

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The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.

**STATUS:** The requirements of these paragraphs are addressed in the Holding Cell Areas Directive, 305.4. The Holding Cell Areas Directive was approved by the Monitor on November 23, 2004, disseminated to all members on April 16, 2005, and effective on May 9, 2005.

Auditable Form UF-008 was forwarded to the Monitor for review on March 30, 2004. The Monitor replied with a TA letter dated June 25, 2004. The COP approved the auditable form and guidelines on March 31, 2005. The revised auditable form and guidelines were made available for use by DPD members via the DPD's website on April 13, 2005. A May 17, 2005, written review by the Monitor requested minor revisions. On August 1, 2005, revisions were completed and forwarded to the Monitor. The form is currently being utilized by DPD members. The DPD is in compliance with the requirements of these paragraphs.

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**Paragraph U-56**

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**Arrest and Detention Policies and Practices**

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The DPD shall revise its material witness policies to define material witness as that term is defined in this Agreement and remove the term "police witness" from DPD policies and procedures.

**STATUS:** No DPD policy or directive references the term "police witness." The requirements of this paragraph are addressed in the Arrest Directive, 202.1. The Arrest Directive (202.1) was approved by the Monitor on February 28, 2005, disseminated to all members on March 24, 2005 and effective on May 2, 2005. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph U-57**

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**Arrest and Detention Policies and Practices**

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The DPD shall obtain a court order prior to taking a material witness into DPD custody. The DPD shall document on an auditable form the detention of each material witness and attach a copy of the court order authorizing the detention.

**STATUS:** The provisions of this paragraph are addressed in the Arrest Directive, 202.1, and the Confinement of Material Witness Training Directive, 04-1. The Training Directive was disseminated on February 28, 2005. Pursuant to the requirements of this paragraph, Material Witness Auditable Form UF-006 and guidelines were created. The DPD is in compliance with the requirements of this Paragraph.

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**Paragraph U-59**

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**Arrest and Detention Policies and Practices**

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The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports of arrests in which an arraignment warrant was not sought. The commander's review shall be completed within 7 days of receiving the document reporting the event. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

**STATUS:** The Command Notification form has been revised and incorporated into the "Review of Arrest Exception Form," UF-001; "Investigatory/Stop and Frisk Exception Form," UF-003; "Warrant Tracking Form," UF-004; and "Exceptions to Interview, Interrogation, and Conveyances Form," UF-005. These auditable forms were posted to the DPD's intranet on April 7, 2005, with guidelines detailing the use of the forms. There was an introduction to the new guidelines conducted at the CLO meeting on April 12, 2005, and the auditable forms are currently in use. Department executives were previously trained on the procedures for completing the Commander's Review on October 21, 2003, and December 23, 2003. The DPD has fulfilled the compliance requirements of this paragraph.

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**Paragraph U-60**

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**Arrest and Detention Policies and Practices**

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The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all violations of DPD prompt judicial review, holds, restrictions and material witness policies on a daily basis. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

**STATUS:** The Command Notification, U-60, is a component of the "Warrant Tracking Form," UF-004; "Confinement of Material Witness Form," UF 006; "Hold Policy Form," UF-007; and "Privilege Restriction Form," UF-008. The Command Notification is affiliated with the Arrest Directive, 202.1; Detainee Registration Directive, 305.2; and Holding Cell Areas Directive, 305.4. The Command Notification was approved by the COP on March 31, 2005.

The response in the Sixth Quarter Report issued in April 2005, stated the language in the Arrest Directive adequately addressed the form requirement. However, the DPD was found non-compliant, due to lack of dissemination and the Commander's Review must be cross referenced in each directive that it appears. The Directives were revised to reflect the changes indicated by the Monitor. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph U-72**

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**General Policies**

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The DPD shall advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

**STATUS:** The Code of Conduct Directive, 102.3, addresses the requirements of this paragraph. The Directive was approved by the COP on June 22, 2004, (also see Teletype 04-00200/229) and the BOPC on July 22, 2004. The Directive was forwarded to the Monitor and DOJ August 11, 2004. The Directive was approved by the Monitor on March 24, 2005, and disseminated throughout the DPD on May 27, 2005, with an effective date of June 27, 2005. On February 12, 2006, the Directive was disseminated electronically to all members of the DPD. In addition, all DPD supervisors were instructed to advise officers of the contents contained in this paragraph via a reflash of the aforementioned teletypes on February 13, 2006, and the corresponding provisions found in the Code of Conduct Directive at their respective roll calls. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph U-73**

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**General Policies**

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The DPD and the City shall develop a plan for ensuring regular field deployment of an adequate number of supervisors of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

**STATUS:** On October 17, 2003, the DPD generated a memorandum to all patrol commanders mandating a minimum of three supervisors per shift in every command. On December 1, 2003, the DPD generated a similar memorandum to all specialized unit commanders mandating that at least one supervisor of the rank for sergeant or above will be deployed per shift to provide supervision for officers detailed to the field. On April 19, 2005, the Monitors agreed with the DPD to modify the required supervisory ratio from a one supervisor to five officers ratio, to a one supervisor to eight officers ratio. The DPD is in compliance with this paragraph.

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**Paragraph U-74**

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**General Policies**

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The DPD shall enforce its policies requiring all DPD officers to report any misconduct committed by another DPD officer, whether committed on-duty or off-duty.

**STATUS:** The requirements of this paragraph are addressed in the Code of Conduct Directive, 102.3. On January 13, 2006, the DPD disseminated the corresponding references to the Code of Conduct Directive to members of the DPD. The DPD is in compliance with this Paragraph.

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**Paragraph U-75**

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**General Policies**

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The DPD shall revise its policies regarding off-duty officers taking police action to:

- a. provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
- b. prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
- c. provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests.

**STATUS:** The Arrest Directive, 202.1, addresses the requirements of this paragraph. This paragraph is also addressed in both the Firearms, 304.1, and Code of Conduct, 102.3, Directives. The DPD is in compliance with the requirements of this paragraph.

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**Paragraph U-76**

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**General Policies**

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The DPD shall revise its policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.

**STATUS:** The Holding Cell Areas, 305.4 and Transportation of Detainees, 305.7 Directives address the provisions of this paragraph. The Transportation of Detainees Directive was approved by the COP May 12, 2004, and the BOPC on June 10, 2004. The Directive was approved by the Monitor on April 26, 2005. The Directive was disseminated on April 18, 2005, effective May 9, 2005. The DPD is in compliance with this paragraph.

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**Paragraph U-77**

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**General Policies**

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The DPD shall develop a foot pursuit policy to:

- a. require officers to consider particular factors in determining whether a foot

- pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
  - c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and
  - d. require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.

**STATUS:** The Foot Pursuit Directive, 303.4 addresses the requirements of this paragraph. This directive was approved by the BOPC April 22, 2004 and by the COP on April 28, 2004. The Directive was revised per a policy review letter from the Monitor dated July 8, 2004. The Directive was forwarded to DOJ and Monitor on October 22, 2004, via electronic transmission. On November 16, 2004, the Directive was approved by the Monitor via conference call. The Directive was disseminated throughout the DPD on February 28, 2005, with an effective date of March 21, 2005. The DPD is in compliance with the requirements of this paragraph.

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#### Paragraph U-78

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#### Management and Supervision

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The DPD shall devise a comprehensive risk management plan, including:

- a. a risk management database (discussed in paragraphs 79-90)
- b. a performance evaluation system (discussed in paragraph 91)
- c. an auditing protocol (discussed in paragraphs 92-99)
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

**STATUS:** The DOJ has approved the Request for Proposal, Review Protocol, and Report Protocol for the Management Awareness System. DPD is waiting for approval from DOJ on the Data Input Plan. However, the Interim Management Awareness System (IMAS) has been implemented and includes a database. Furthermore, DPD has approved the conversion of the IMAS database to the permanent database for (MAS) rather than pursuing outside vendors.

On February 17, 2006, the DOJ tentatively approved converting IMAS to MAS, with several concerns including the potential cost overruns and the possibility of petitioning the Court to modify the consent judgments. This issue will be discussed with the DOJ during the first week in March 2006.

The DPD shall prepare, for the review and approval of the DOJ, a Review Protocol for using the risk management database that addresses data analysis, supervisory assessment, supervisory intervention, documentation and auditing. The Review Protocol shall require:

- a. that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s') supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;
- b. the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;
- c. supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;
- d. precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;
- e. appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;
- f. commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;
- g. that the information in the database be accessible to commanders, supervisors and the BPC;
- h. that the information in the database is considered when evaluating a DPD employee for transfer or promotion;
- i. commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;
- j. commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;
- k. that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and
- l. that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.



**STATUS:** The Review Protocol was submitted to the DOJ for review on October 25, 2004. On March 22, 2005, the DOJ responded with comments and/or suggestions. On May 16, 2005, the revised documents were resubmitted to the DOJ. On July 11, 2005, the DOJ approved the Review Protocol. The DPD is in compliance with this Paragraph.

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**Paragraph U-85**

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**Management and Supervision**

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The DPD shall seek to ensure that the risk management database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, shall organize the risk management database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol and the Request for Proposals and in negotiating with contractors, such that difficulties with one aspect of the risk management database do not delay implementation of other modules.

**STATUS:** The components of the Risk Management Database: the Data Input Plan, Request for Proposal, Report Protocol, and Review Protocol, were submitted to the DOJ for review on October 25, 2004. On March 22, 2005, the DOJ responded with comments and/or suggestions. On July 11, 2005, the DOJ approved the RFP, Review Protocol, and the Interim Management Awareness System (IMAS.)

In order to expedite the development of the Management Awareness System (MAS) database, as well as address other issues related to this area, the DPD submitted a recommendation to the DOJ to have the IMAS database converted into the MAS.

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**Paragraph U-88efg**

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**Management and Supervision**

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The new risk management database shall be developed and implemented according to the following schedule:

- a. Within 90 days of the effective date of this Agreement, the DPD shall submit the Data Input Plan to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ to allow the DOJ to become familiar with the document as it is developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Data Input Plan receives final approval within 30 days after it is presented for review and approval.
- b. By September 30, 2003, the DPD shall submit the Report Protocol and a Request for Proposals to the DOJ for review and approval. The DPD shall share drafts of these documents with the DOJ to allow the DOJ to become familiar with the documents as developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Report Protocol and the Request for Proposals receive final approval within 30 days after they are presented for review and approval.
- c. By October 31, 2003, the DPD shall issue the Request for Proposals.

- d. By March 30, 2004, the DPD shall submit the Review Protocol to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ and the Monitor (a position described in Section X) to allow the DOJ and the Monitor to become familiar with the document as it develops and to provide informal comments on it. The DPD and the DOJ shall together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.
- f. By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary data base software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.
- g. The risk management database shall be operational and fully implemented by December 31, 2005.

**STATUS:** (e) A contractor has not been selected. As mentioned previously, the DPD is recommending that the IMAS be converted MAS utilizing in-house consultants.

(f) The DOJ has not fully approved the Data Input Plan and have some concerns regarding approval of converting IMAS to Mas.

(g) The DPD is awaiting approval from DOJ to convert IMAS to MAS. However, the IMAS has been up and fully operational in all of the Districts effective May 1, 2005.

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## Paragraph U-89

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## Management and Supervision

Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training; prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.

**STATUS:** The DPD developed the IMAS to address the requirements of this paragraph. The information contained in this system's database is formatted to facilitate entry into the final risk management database. As previously noted, the Interim Management Awareness System has been approved by the DOJ. The DPD is in compliance with this Paragraph.

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**Paragraph U-93**

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**Management and Supervision**

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The DPD shall issue a report to the Chief of Police on the result of each audit and examine whether there is consistency throughout the DPD. The DPD shall also provide the reports to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

**STATUS:** Audit reports are forwarded to the Chief of Police and executives with a synopsis of each audit. In all instances where a specific deficiency was disclosed in an audit report, the Office of Civil Rights also forwarded to that command a Corrective Action Notice (CAN) and the involved command has ten days to prepare a Corrective Action Plan (CAP) on what corrective action was recommended or taken to correct the deficiency. During the subsequent quarter (ending May 31, 2006), the DPD will conduct follow-up random inspections to ascertain whether the deficiency has been corrected. Those instances in which deficiencies have not been addressed will be brought to the attention of the Chief of Police.

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**Paragraph U-98**

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**Management and Supervision**

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The DPD shall conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD shall require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

**STATUS:** Due to the association between Paragraphs 98, 100, 101, and 102, the status of this paragraph is reported jointly under Paragraph 102.

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**Paragraph U-100**

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**Management and Supervision**

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The DPD shall repair or replace all non-functioning video cameras.

**STATUS:** Due to the association between Paragraphs 98, 100, 101, and 102, the status of this paragraph is reported jointly under Paragraph 102.

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**Paragraph U-101**

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**Management and Supervision**

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The DPD policy on video cameras shall be revised and augmented to require:

- a. activation of scout car video cameras at all times the officer is on patrol;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.

**STATUS:** Due to the association between Paragraphs 98, 100, 101, and 102, the status of this paragraph is reported jointly under Paragraph 102.

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**Paragraph U-102**

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**Management and Supervision**

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The DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

**STATUS:** On March 4, 2005, a video review protocol was submitted to the Monitor. On April 26, 2005, the Monitor advised of minor revisions to both the protocol and to related Directives, In-Car Video Equipment , 303.3, and Holding Cell Areas , 305.4. On May 10, 2005, the DPD resubmitted the protocols, forms, and policies to the Monitor. On May 16, 2005, the Monitor approved the protocols, forms, and policies. The In Car Video Equipment Directive and protocol were disseminated August 15, 2005, with an effective date of September 9, 2005. The DPD is in compliance with this Paragraph.

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**Paragraph U-103**

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**Management and Supervision**

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The City shall ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

**STATUS:** Due to the association between Paragraphs 103 and 104 the status of this paragraph is reported jointly under Paragraph 104.

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**Paragraph U-104**

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**Management and Supervision**

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The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

**STATUS:** Documentation on the procedures which have been implemented by the DPD to eliminate the backlog of disciplinary cases was submitted to the DOJ on March 18, 2005. Additional personnel were added to Disciplinary Administration. A bar graph was also included, which illustrated the month by month closure of cases in the 2004 calendar year. The DPD awaits a response from the DOJ on the submitted documents.

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**Paragraph U-105**

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**Management and Supervision**

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The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;
- c. requires that any departure from the presumptive range of discipline must be justified in writing;
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and
- e. provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

**STATUS:** The disciplinary matrix that addresses this paragraph was submitted to the DOJ on March 11, 2005. The Discipline Matrix was approved by the Monitor on January 4, 2006. The Discipline Matrix was disseminated to all DPD executives on January 6, 2006, with an immediate effective date. The DPD Discipline Matrix was disseminated to all members on February 2, 2006. The DPD is in compliance with this Paragraph.

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**Paragraph U-115**

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**Training**

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The DPD shall provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

**STATUS:** The DPD is anticipating conducting this training during March, 2006.

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**Paragraph U-116**

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**Training**

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The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession.

**STATUS:** The provisions of this paragraph are addressed in the approved Arrest Directive, 202.1. In addition, the Prompt Judicial Review Lesson Plan was submitted to the Monitor on February 25, 2005. The DPD is awaiting a response.

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**Paragraph U-116**

**Training**

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The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

**STATUS:** The provisions of this paragraph are addressed in the approved Confinement of Material Witness Training Directive, 04-1, and the Arrests Directive, 202.1. In addition, the Confinement of Material Witness Lesson Plan was submitted to the Monitor on July 14, 2005. The DPD is awaiting a response.

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**Paragraph U-117**

**Training**

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The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

**STATUS:** Supervisory Evaluation Report Writing lesson plan is being developed. Lesson plans are being revised to reflect best practices. The Supervisory Report Writing Guidelines and Report Evaluation Lesson Plan was submitted to the Monitor on November 21, 2005. The DPD is awaiting a response.

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**Paragraph U-118**

**Training**

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DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

**STATUS:** Lesson plans are being revised to reflect best practices. The anticipated date of completion for this lesson plan is March 31, 2005.

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**Paragraph U-120**

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**Training**

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The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database.

**STATUS:** Training for the IMAS began November 29, 2004. The training encompasses risk assessment and risk management. As of this date, 399 supervisors have been trained on the use of the system.

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**Paragraph U-121**

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**Training**

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The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

**STATUS:** Investigator training lesson plan was submitted January 7, 2005, to the DOJ and Monitor. The DPD awaits a response from the Monitor.

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**Paragraph U-122**

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**Training**

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The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

**STATUS:** The external complaints lesson plan is incorporated in the Investigator training lesson plan and was submitted to the DOJ and Monitor on January 7, 2005. The DPD awaits a response from the Monitor.

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**Paragraph U-123**

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**Training**

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The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

**STATUS:** The enhanced FTO protocol was initially submitted to the DOJ on January 30, 2004. On April 20, 2004, the DPD received a TA letter from the DOJ with comments and/or recommendations. On February 11, 2005, the DPD resubmitted the revised protocol. The DPD currently awaits the DOJ's response.

## CONCLUSION

Albeit challenges abound, the DPD have made remarkable progress toward compliance during the Tenth Quarter in regards to dissemination of policy and training directives to all commands. The Tenth Quarter Report details significant steps taken concerning inspections of holding cells to ensure compliance of specific paragraphs in the CJ.

The Tenth Quarter Report also exemplifies the DPD's continued commitment toward professionalizing its members with on-going training in an effort to ensure that both our civilian and police personnel have the needed tools to complete the desired tasks as it relates to achieving compliance with the CJ.

The DPD also made significant progress toward adhering to a difficult and complex audit schedule and in submitting quality audits. It is important to note that prior audits submitted were not as meaningful since many of the underlying policies and procedures had not been implemented. And although many of the audits submitted this quarter focused on populations that may have been prior to the effective date of several policies, the audits were much more useful to DPD management in focusing resources and intensity toward those areas where such interest was identified and warranted in audit findings.

The DPD will continue to make every effort necessary for positive forward movement towards achieving compliance with the mandates of the CJ. Overall, the report displays the DPD's genuine commitment to conform to the standards and requirements set forth in the CJ.



